

WILMERHALE

George W. Mykulak

+1 617 526 6023(t)

+1 617 526 5000(f)

george.mykulak@wilmerhale.com

March 29, 2012

By ECF

Magistrate Judge Gary R. Brown  
United States District Court  
100 Federal Plaza  
Central Islip, NY 11722

**Re: Eagle Auto Mall Corp. et al v. Chrysler Group LLC, 10-cv-03876(LDW)(GRB)**

Dear Magistrate Judge Brown:

I represent Defendant Chrysler Group LLC ("CG") in the above-referenced action. By this letter motion, CG, with the consent of Plaintiffs, respectfully requests this Court to continue the pre-trial conference recently scheduled in this matter for April 23, 2012 at 2:00 pm, to the following week on May 2, 2012 in the afternoon or any time on May 4, 2012, or another date and time after May 4, 2012 that is convenient for the Court. Due to a trial conflict, I am unable to appear on April 23, 2012 for the pre-trial conference in this case. I am scheduled to appear at an administrative trial on April 23 -24 and April 26- 27, 2012 in New Jersey before the Honorable Patricia Kerins, A.L.J. in the matter *Pellegrino Chrysler Jeep, Inc. v. Chrysler Group LLC et al.*, OAL Docket No. MFC 9457-2011 S. ("Pellegrino Case"). I have conferred with Plaintiffs' counsel, and they are available on the alternative dates proposed in this motion.

By way of background, on December 23, 2011, Judge Wexler entered an Order on the parties' cross motions for summary judgment. The Court denied Plaintiffs' motion for summary judgment seeking a declaration that they be reinstated to their pre-bankruptcy dealership agreements, and granted CG's motion, holding that CG is not required to reinstate Plaintiffs as Chrysler dealers under the same terms and conditions that applied prior to the bankruptcy of Old Chrysler. Dec. 23, 2012 Order at 12. The Court expressly limited the trial in this matter "to the issue of whether Plaintiffs were offered the customary and usual letter of intent to enter into franchise agreements." *Id.* at 12-13. On January 5, 2012, CG filed a pre-motion request seeking permission to file a motion for reconsideration of the December 23, 2011 Order. Judge Wexler entered an Order on January 19, 2012 permitting briefing to go forward without a pre-motion conference.

The parties appeared in this court on January 19, 2012 at the previously scheduled pre-trial conference. Given Judge Wexler's Order on the same day, this Court ruled that the Joint Proposed Pre-trial Order was to be held in abeyance pending the determination of the motion for reconsideration before Judge Wexler. On March 9, 2012, Judge Wexler denied CG's motion for reconsideration, holding that the Plaintiffs were entitled to try their alternative remedy, namely whether Plaintiffs were "offered the customary and usual letter of intent required by the Act." The Order clarified that Plaintiffs were entitled to an offer under terms that were "usual and customary at the time of the offer, and not those governing Plaintiffs' pre-bankruptcy dealership agreements." Jan. 19 Order at 3. On March 27, 2012, counsel for Plaintiffs submitted a letter to

WILMERHALE

Magistrate Gary R. Brown  
March 29, 2012  
Page 2

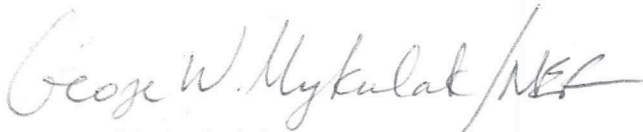
this Court requesting it to reset the matter for a pre-trial conference. On that same day, this Court scheduled a pre-trial conference for April 23, 2012.

In accordance with this Court's Individual Practices paragraph 1(D), CG hereby represents that: 1) the original date of this conference was January 19, 2012, when the parties appeared before this Court for an Initial Pre-trial Conference.<sup>1</sup> Your Honor held the Joint Proposed Pre-Trial Order in abeyance pending Judge Wexler's determination of CG's motion for reconsideration; 2) on March 27, 2012, this Court scheduled a final pre-trial conference for April 23, 2012 at 2:00 pm.; 3) there have been no previous requests to adjourn this final pre-trial conference; 4) adjournment of the April 23<sup>rd</sup> conference is necessary due to my trial conflict in New Jersey in the Pellegrino Case described above; and 5) the parties have conferred and Plaintiffs consent to this motion.

Accordingly, in light of the foregoing, CG respectfully requests this Court to adjourn the currently scheduled pre-trial conference on April 23, 2012 at 2:00 pm, to either the afternoon of May 2, 2012 or any time on May 4, 2012, or another date and time that is convenient for the Court after May 4, 2012.

Thank you for your consideration.

Very truly yours,



George W. Mykulak

cc: Hon. Leonard Wexler  
Allen Press, Esq., Counsel for Plaintiffs  
Steven Blatt, Esq., Counsel for Plaintiffs

---

<sup>1</sup> Prior to the filing of summary judgment motions by the parties, a pre-trial conference was set for September 15, 2011. That conference was vacated by a *sua sponte* Order dated August 4, 2011, continuing the pre-trial conference to January 12, 2012. This Court granted a joint motion by the parties to adjourn the January 12 pre-trial conference, which was continued until January 19, 2012.